

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALLAN SEAGER,

Petitioner,

v.

No. 20-cv-1261-KWR-LF

DWAYNE SANTISTEVAN, *et al*,

Respondents.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Petitioner Allan Seager's post-judgment Motion to Unseal State Court Exhibit and Requests for Hearing (Docs. 13-15) (together, the "Post-Judgment Motions"). Petitioner is incarcerated and proceeding *pro se*. He asks the Court to unseal an exhibit filed in his state criminal case, No. D-722-CR-2010-0011. The State Court sentenced Petitioner to 18 years imprisonment in that case following his convictions for criminal sexual penetration of a child under age thirteen. *See* Doc. 1 at 1; Amended Judgment in Case No. D-722-CR-2010-0011. Petitioner filed his first federal 28 U.S.C. § 2254 petition challenging those convictions in 2015. *See* Case No. 15-cv-0747-MCA-SMV. The Court (Hon. M. Christina Armijo) denied the first § 2254 petition on the merits in 2016. *See* Doc. 22 in Case No. 15-cv-0747-MCA-SMV. On December 4, 2020, Petitioner filed a second § 2254 petition challenging his state convictions in Case No. D-722-CR-2010-0011, which generated the above-captioned habeas action. *See* Doc. 1. This Court dismissed the second § 2254 petition for lack of jurisdiction and as an unauthorized successive habeas filing. *See* Doc. 3 (Dismissal Ruling). Final Judgment was entered in this case on December 7, 2020. *See* Doc. 4.

Petitioner filed the instant Post-Judgment Motions over three years after entry of the Final

Judgment. Post-judgment motions filed more than 28 days after entry of a judgment are generally analyzed under Fed. R. Civ. P. 60(b). To obtain relief more than one year after entry of a final judgment, the movant typically must show the judgment is void or has been otherwise satisfied. *See* Fed. R. Civ. P. 60(b)(4)-(6), (c)(1). Rule 60(b)(6) also contains a catchall clause for “any other reason that justifies relief.” However, Rule 60(b)(6) relief is “extraordinary,” “difficult to attain,” and only “appropriate ... when it offends justice to deny such relief.” *Zurich North America v. Matrix Serv., Inc.*, 426 F.3d 1281, 1289, 1293 (10th Cir. 2005). Courts have considerable discretion in deciding whether to grant relief under Rule 60(b). *See Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997).

The Post-Judgment Motions here seek an order directing the State District Court to unseal Exhibit 19 in Petitioner’s state criminal proceeding, Case No. D-722-CR-2010-0011. *See* Doc. 13 at 1. Exhibit 19 consists of a forensics report, which allegedly contains exculpatory evidence that will aid in Petitioner’s defense. *Id.* Even assuming this is true, there is no basis to grant post-judgment relief in this closed federal habeas case. The Post-Judgment Motions fail to demonstrate the Judgment is void/satisfied or that extraordinary circumstances exist. There is also no procedural mechanism that would allow a Federal Court to direct a State Court to unseal an exhibit and/or provide discovery in a state criminal case. The federal rules governing sealed exhibits only apply in Federal Court proceedings. Further, the federal mandamus statute – which permits the Court to compel a government agent to perform his or her duty – only applies to federal officials. *See* 28 U.S.C. § 1361 (permitting Federal Courts to compel action by a federal official); *Mathieu v. Brown*, 780 Fed. App’x 665, 666 (10th Cir. 2019) (“The statute does not allow relief against state officials or state agencies.”); *United States v. Tinajero-Porras*, 304 Fed. App’x 754, 757 (10th Cir. 2008)

(Federal Courts lack jurisdiction to compel production of documents from a respondent who is “not an officer or employee of the United States” under § 1361). Petitioner has therefore not established grounds for relief under Rule 60(b) or any state or federal procedural rule.

The Post-Judgment Motions also appear to contain substantive arguments regarding the invalidity of Petitioner’s state criminal convictions in Case No. D-722-CR-2010-0011. Petitioner alleges the State altered the evidence against him and concealed exculpatory information. *See* Docs. 13, 15. To the extent the Post-Judgment Motions continue to raise successive habeas claims, the Court lacks jurisdiction to resolve such claims on the merits. *See* 28 U.S.C. § 2244(a); *In re Cline*, 531 F.3d 1249, 1251 (10th Cir. 2008) (“A district court does not have jurisdiction to address the merits of a second or successive ... § 2254 claim until [the Tenth Circuit] has granted the required authorization.”). The Court has the option of transferring any successive § 2254 claims to the Tenth Circuit, if they appear meritorious or contain new evidence of innocence, for example. *See Cline*, 531 F.3d at 1251; 28 U.S.C. § 2244(b)(2). A transfer is not appropriate here because Petitioner does not explain why the state forensics report is exculpatory. The Tenth Circuit also already declined to grant Petitioner’s application to pursue a successive claim after this case was dismissed. *See* Doc. 39 in Case No. 15-cv-0747-MCA-SMV (denying Petitioner’s motion for authorization to file a successive § 2254 claim).

For these reasons, the Court will deny the Post-Judgment Motions, to the extent Petitioner seeks relief under Rule 60(b) or a state/federal procedural rule, and dismiss those filings without prejudice, to the extent they raise successive habeas claims. The Court will also deny a certificate of appealability under Habeas Corpus Rule 11, as this ruling is not reasonably debatable. *See* Habeas Corpus Rule 11 (requiring the District Court to issue or deny a certificate of appealability

when it enters an order adverse to the petitioner); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (A certificate may only issue where “reasonable jurists would debate the assessment of the ... claims”).

IT IS ORDERED that Petitioner Allan Seager’s Motion to Unseal State Court Exhibit and Requests for Hearing (**Docs. 13-15**) are **DENIED**, to the extent they seek relief under Rule 60(b) or a state/federal procedural rule; and **DISMISSED without prejudice**, to the extent they raise successive habeas claims; and a certificate of appealability is **DENIED**.

SO ORDERED.

/S/

HON. KEA RIGGS
UNITED STATES DISTRICT JUDGE